

REMARKS

This Response to Office Action is submitted in reply to the Office Action of August 5, 2004. Claims 1, 8 to 10, 13, 14, 20, 23, 24, 34, 35, 39 and 44 have been amended. Claims 6, 7, 21 and 22 have been cancelled without prejudice or disclaimer. Claims 45 to 47 have been added. No new matter has been added. A Petition for a Two-Month Extension of Time to respond to the Office Action is submitted herewith. A check in the amount of \$450.00 is submitted herewith to cover the cost of the two-month extension. Please charge Deposit Account No. 02-1818 for any insufficiency or credit for any overpayment.

The Office Action objected to Claims 1, 5, 7 to 10, 13, 14, 20, 22, 23, 35 and 39. Claims 7 and 22 have been cancelled as described below. Claims 1, 5, 8 to 10, 13, 14, 20, 23, 35 and 39 have been amended to overcome the objections. It is respectfully submitted that these changes have not been made for the purpose of distinguishing over the prior art of record.

The Office Action rejected Claims 1 to 6, 10 to 21 and 25 to 44 under 35 U.S.C. 103(a) as being obvious in view of U.S. Patent Publication No. US 2003/0040352 to Marks et al. ("Marks"). The Office Action rejected Claims 7 to 9 and Claims 22 to 24 as obvious over Marks in view of US Patent Publication No. US 2003/0189290 to Moody ("Moody"). Applicant respectfully disagrees with these rejections because the gaming device resulting from the combination of Marks and Moody does not teach, disclose or suggest the originally claimed invention. Nonetheless, Applicant has amended the claims as described below to place the application in condition for allowance.

Applicant has added at least some of the elements of Claims 6 and 7 into independent Claim 1, and cancelled Claims 6 and 7. Applicant has added at least some of the elements of Claims 21 and 22 into independent Claim 20, and cancelled Claims 21 and 22. Applicant respectfully submits that independent Claims 1, 20 and 35 have been amended to place the application in condition for allowance.

Marks discloses a gaming device for playing a poker game. The poker game in Marks includes the cards in a standard fifty-two card deck and additional cards that may be dealt to a player. The additional cards in the Marks poker game are Reward Cards.

Marks states that the Reward Cards do not act as regular playing cards. Instead, the Reward Cards enhance the player's winnings.

Moody discloses a method of playing video poker games. A deck of cards in the Moody poker game includes "bonus hand" cards. A "bonus hand" card acts as a triggering event during the game. When a player is dealt a "bonus hand" card, the player receives a second poker hand for no additional charge. Moody discloses dealing some of the cards face-down. The "bonus hand" card awards another hand to the player without requiring an additional wager.

Amended Claims 1, 20 and 35 are directed towards operating a poker game. Amended Claims 1, 20 and 35 include receiving a wager from a player. The player is dealt a hand from a deck of cards. The deck of cards includes at least one positive impact card and at least one negative impact card. Amended Claims 1 and 20 include not revealing to the player whether a card is a positive or a negative impact card. Amended Claims 1, 20 and 35 include revealing to the player whether a card is one of the positive impact cards or one of the negative impact cards after the replacement, if any, of at least one of the cards by the player. Amended Claims 1, 20 and 35 include awarding the player if the hand includes a winning combination of cards. The negative impact card cannot be part of any winning card combination.

The Reward Cards in Marks provide an additional award to the player. Marks does not include a deck of cards with a positive impact card and a negative impact card. Moreover, Marks does not include revealing whether a card is one of the positive impact cards or one of the negative impact cards after the replacement, if any, of at least one of the cards by the player. Moody does not include a deck of cards with a positive impact card and a negative impact card. Therefore, Moody does not include revealing whether a card is one of the positive impact cards or one of the negative impact cards after the replacement, if any, of at least one of the cards by the player.

Neither Marks nor Moody teaches, discloses or suggests a deck of cards with a positive impact card and a negative card. Therefore, Marks and Moody do not teach, disclose or suggest revealing whether a card is one of the positive impact cards or one

of the negative impact cards after the replacement, if any, of at least one of the cards by the player.

The game resulting from the combination of Marks and Moody, if combinable, would appear to result in a poker game where a player may be dealt a card face-down, and a player may receive increased awards. Neither Marks nor Moody teaches, discloses or suggests revealing whether a card is a negative impact card or a positive impact card after any replacement of cards by the player. Neither reference teaches, discloses or suggests each element, thus, the combination of the two references does not teach, disclose or suggest each element of amended Claims 1, 20 and 35.

Amended Claims 1, 20 and 35 include a positive impact card and a negative impact card. Amended Claims 1, 20 and 35 include revealing whether a card is a positive impact card or a negative impact card after the replacement, if any, of at least one of the cards by the player. Therefore, Applicant respectfully submits that amended Claims 1, 20 and 35 are patentably distinguished over Marks and Moody and in condition for allowance. Applicant respectfully submits that Claims 2 to 5 and Claims 8 to 19 (depending directly or indirectly from Claim 1), Claims 23 to 34 (depending directly or indirectly from Claim 20), and Claims 36 to 47 (depending directly or indirectly from Claim 35), are also in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art such action is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

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Dated: January 12, 2005